

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THOMAS DEAN,

Plaintiff,

CIVIL CASE NO. 05-40106

v.

PATRICIA CARUSO,

HONORABLE PAUL V. GADOLA
U.S. DISTRICT COURT

Defendant.

_____ /

ORDER ACCEPTING REPORT AND RECOMMENDATION

Plaintiff's complaint is a civil rights action filed under 42 U.S.C. § 1983. Before the Court is Defendant's motion to dismiss and the Report and Recommendation of the Honorable Wallace Capel, Jr., United States Magistrate Judge. The Magistrate Judge recommends that this Court grant Defendant's motion and dismiss Plaintiff's complaint for failure to exhaust his administrative remedies. The Magistrate Judge filed the Report and Recommendation on November 1, 2005 and notified all the parties that any objections must be filed within ten days of service. Neither party has filed objections to the Report and Recommendation.

The Court's standard of review for a Magistrate Judge's Report and Recommendation depends upon whether a party files objections. If a party does not object to the Report and Recommendation, the Court does not need to conduct a review by any standard. *See Lardie v. Birkett*, 221 F. Supp. 2d 806, 807 (E.D. Mich. 2002) (Gadola, J.). As the Supreme Court observed, "[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those

findings.” *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Since neither party has filed objections to the Report and Recommendation, the Court need not conduct a review.

ACCORDINGLY, IT IS HEREBY ORDERED that the Report and Recommendation [docket entry 17] is **ACCEPTED and ADOPTED** as the opinion of this Court.

IT IS FURTHER ORDERED that Defendant’s motion to dismiss [docket entry 9] is **GRANTED**.

IT IS FURTHER ORDERED that this action, No. 05-40106, is **DISMISSED WITH PREJUDICE**.

SO ORDERED.

Dated: January 31, 2006

s/Paul V. Gadola
HONORABLE PAUL V. GADOLA
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on January 31, 2006, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Christine M. Campbell, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Thomas Dean.

s/Ruth A. Brissaud
Ruth A. Brissaud, Case Manager
(810) 341-7845